# ILLINOIS COMMERCE COMMISSION

Village of Winfield, IL, a municipal corporation, Petitioner

VS.

Union Pacific Railroad Co. Respondent

T01-0001

Petition for an order of the Illinois Commerce Commission designating the existing grade crossing at Winfield Road with the tracks of the Union Pacific Railroad Co. in the Village of Winfield in need for additional protection for pedestrians, directing thereat the installation of automatic pedestrian crossing protection.

TO ALL PARTIES OF RECORD:

### **HEARING EXAMINER'S PROPOSED ORDER**

Attached is a copy of the Hearing Examiner's Proposed Order in the above referenced matter.

The Hearing Examiner's Proposed Order is being sent to you pursuant to the Commission's Rules of Practice (83 III. Adm. Code 200). Your case is a "contested case" or "licensing case" as defined in Section 200.40 of the Rules and, therefore, the Hearing examiner is required under Section 200.820 to issue a Proposed Order to all parties.

Under Section 200.830 of the Rules, exceptions to the Proposed Order and replies thereto may be filed by the parties within the time periods established by the rules of such other times as fixed by the hearing examiner. The times for filing exceptions and replies are fixed at ten days and five days, respectively.

Sincerely,

Rick Korte, Thief Hearing Examiner Review & Examination Program

RK:rsc

Hearing Examiner:

Ms. Tate

Railroad Staff:

Mr. Humphries

DOCKETED

#### STATE OF ILLINOIS

## ILLINOIS COMMERCE COMMISSION

Village of Winfield, DuPage County, Illinois, Petitioner

VS.

Union Pacific Railroad Company,
Respondent

Petition for an order of the Illinois Commerce: Commission designating the existing grade; crossing at Winfield Road with the tracks of the Union Pacific Railroad Company in the Village: of Winfield in need for additional protection for: pedestrians, directing thereat the installation of automatic pedestrian crossing protection.

T01-0001

# <u>ORDER</u>

By the Commission:

On January 3, 2001, the Village of Winfield, Illinois ("Petitioner") filed the above-captioned petition with the Illinois Commerce Commission ("Commission") naming as Respondent the Union Pacific Railroad Company.

Pursuant to notice, the matter came on for hearing before a duly authorized Hearing Examiner of the Commission at the Commission's Chicago office on March 13, 2001. Petitioner and Respondent were represented by counsel. An appearance was also entered by Robert Berry, a member of the Commission staff, Transportation Division, Railroad Section. Testimony and evidence in support of the petition were provided by Petitioner's Administrative Assistant to the Village Manager, Christopher Bethel and by Petitioner's Chief of Police, Douglas M. Riner. Gerald E. Lienemann, manager of field engineering for Respondent testified as well. At the conclusion of the hearing, the record was marked "Heard and Taken." Post-hearing briefs were filed by Petitioner and Commission staff.

Winfield Road is maintained by Petitioner, extends generally north-south, and crosses the tracks of Respondent. Respondent has main line tracks running through the Village in a general east-west direction. A curve in the tracks to the west of the subject crossing makes it difficult to see approaching commuter and freight trains. There are 110 train crossings daily traveling at a maximum of 70 miles per hour.

Winfield Road has an elementary school, a middle school, and a combined elementary-middle school in close proximity to the crossing. Additional pedestrian traffic is generated, by an office of the United States Postal Service, Village Hall, Police Station, Central DuPage Hospital, Fire Station, two churches, the public library, and local businesses. There are five commuter parking lots on both sides of the tracks with a capacity of 417 vehicles.

By reason of the volume of railroad and pedestrian traffic at this location, the crossing warrants the installation of automatic protective pedestrian crossing gates. The installation of crossing gates is necessary in the interests of public safety in view of the numbers of adults and school children utilizing the crossing daily.

The Commission, having considered the evidence of record, is of the opinion and finds that:

- (1) the Village of Winfield, **DuPage** County, Illinois is a political subdivision organized and existing under and by virtue of the laws of the State of Illinois;
- (2) the Union Pacific Railroad Company is a Utah corporation engaged in the transportation of persons and/or property by rail in the State of Illinois and as such, is a rail carrier as defined by the Illinois Commercial Transportation Law;
- (3) the Commission has jurisdiction of the subject matter and parties herein:
- (4) the recitals of fact set forth in the prefatory portion of this Order are supported by evidence of record and are hereby adopted as findings of fact;
- (5) it is fair and reasonable that the entire cost of the installation of the pedestrian warning systems be borne by the Village of Winfield, Illinois;
- (6) it is fair and reasonable that the cost of future maintenance of the pedestrian warning systems be borne by the Village of Winfield, Illinois; the actual maintenance of the automatic pedestrian crossing gates should be the responsibility of Union Pacific Railroad Company;
- (7) the project should be completed within six (6) months of the date of this Order.

- IT IS THEREFORE ORDERED by the Illinois Commerce Commission that Union Pacific Railroad Company is required and directed to construct four automatic protective pedestrian crossing, gates, one device in each quadrant, at the crossing of its tracks at Winfield Road in Winfield, DuPage County, Illinois.
- IT IS FURTHER ORDERED that the cost of the construction of the automatic protective pedestrian crossing gates be, and the same is hereby, the sole responsibility of the Village of Winfield, Illinois.
- IT IS FURTHER ORDERED that the cost of future maintenance of the automatic pedestrian crossing gates be, and the same is hereby, the sole responsibility of the Village of Winfield, Illinois and that the actual maintenance of the automatic pedestrian crossing gates be, and the same is hereby, the sole responsibility of the Union Pacific Railroad Company.
- IT IS FURTHER ORDERED that Union Pacific Railroad Company is hereby required and directed to proceed with the project herein approved and in all aspects thereof conform to the requirements of 92 Illinois Administrative Code ("I.A.C.")1535.
- IT IS FURTHER ORDERED that Union Pacific Railroad Company shall filed Form 3 of 92 I.A.C. 1535 OF THIS commission showing details of the automatic warning devices herein required and shall receive approval thereof by X-Resolution before commencing the required work.
- IT IS FURTHER ORDERED that all work required of the Railroad shall be completed within one (1) year of the date of this Order.
- IT IS FURTHER ORDERED that Union Pacific Railroad Company and the Village of Winfield, Illinois shall at six (6) month intervals from the date of this Order until the project has been completed, submit written reports to the Director of Processing, Transportation Division of the Commission stating the progress it has made toward completion of the work herein required. If the project is behind schedule, the report must include a brief explanation of the reason(s) for the delay. Each progress report shall include the Commission Order number, the Order date, the project completion date as noted in the Order, crossing information (inventory number and railroad milepost), type of improvement, and project manager information (name, title, mailing address, telephone number, and facsimile number) of the employee responsible for the management of the project.
- IT IS FURTHER ORDERED that Union Pacific Railroad Company shall within five (5) days of the completion of the work herein, file with the Commission's Director of Processing, Transportation Division, a letter advising the Commission of completion of the installations.

PROPOSED ORDER
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IT IS FURTHER ORDERED that the Commission shall retain jurisdiction for the purpose of issuing any supplemental order or orders as it may deem necessary.

IT IS FURTHER ORDERED that in accordance with the provisions of Chapter 625 ILCS 5/18c-2201 and 5/18c-2206 of the Illinois Commercial Transportation Law, this is a final order subject to the Administrative Review Law.

By Order of the Commission this day of 2001.

Chairman